

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF MISSOURI  
SOUTHERN DIVISION**

<b>DENNIS SIMMONS,</b>	)	
	)	
<b>Petitioner,</b>	)	
	)	
<b>vs.</b>	)	<b>Case No. 06-3226-CV-S-GAF</b>
	)	
<b>ROBERT McFADDEN,</b>	)	
	)	
<b>Respondent.</b>	)	

**ORDER**

Now pending before the Court is petitioner's Writ of Habeas Corpus in which he challenges his sentence. Petitioner contends that the court and the government breached the plea agreement in his case, resulting in an excessive sentence.

On June 8, 2006, Chief United States Magistrate Judge James C. England issued his Report and Recommendation (Doc. #4). On June 22, 2006, defendant filed his Objections to the Report and Recommendation of United States Magistrate (Doc. #5).

Upon careful and independent review of the pending Petition for Writ of Habeas Corpus, defendant's objections to the Magistrate's Report and Recommendation, as well as the applicable law, this Court hereby adopts and incorporates as its own Opinion and Order the Report and Recommendation of Chief United States Magistrate Judge James C. England.

Accordingly, it is hereby ORDERED that petitioner is denied leave to proceed in forma pauperis and petitioner's Petition for Writ of Habeas Corpus (Doc. #1) is dismissed without prejudice.

/s/ Gary A. Fenner  
GARY A. FENNER, JUDGE  
United States District Court

DATED: August 31, 2006